

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

JOSE I. AMBER MEDINA, ET AL,  
Plaintiffs,

CIVIL NO. 02-2317(DRD)

v.

OLA INTERNATIONAL, ET AL,  
Defendants.

**ORDER**

Pending before the Court is Co-defendant Westfield Insurance Company's *Motion to Exclude Dr. Angel Roman Franco as an Expert and Other Discovery Related Matters*. (Docket No. 46). Westfield requests the Court to exclude Dr. Roman Franco as plaintiffs' expert witness due to his failure to appear for multiple deposition requests. In the alternative, Westfield requests the Court to extend the discovery deadline and hold a new Status Conference in order to schedule the remaining discovery. Plaintiffs timely opposed Westfield's motion through a *Motion to Strike Motion to Exclude Dr. Roman Franco and Other Discovery Related Matters*. (Docket No. 48).

Regarding discovery disputes, the Court ordered, on December 13, 2004, the following:

The Court reminded both parties that no discovery related motions are to be filed with the Court except by prior exhaustion of Local Rule 26 (b). If no agreement is reached by the parties after conducting a Local Rule 26(b) meeting, **then**, the parties are to reach the law clerk assigned to this case via telephone at (787)772-3164. The parties are to fax to the law clerk their respective Rule 26 (b) letters as to the disputed discovery matter. The judge will try and reach the parties within forty-eight (48) hours of their call to resolve the matter (the parties may request a transcript and the judge will issue a Minute of Proceedings as to the issue, the position of the parties and the resolution of the matter. The parties' Rule 26(b) letters shall form part of the record). However, if the parties' telephone call has not been answered by the judge **within five (5) days after the call**, only then, will the parties be authorized to file a discovery-related motion with the Court. During all this time the parties are to seriously and maturely examine the discovery-related dispute and attempt to solve the matter. **The Court shall not hesitate to impose sanctions should obstinacy be present.**

*Minute*, December 13, 2004, Docket No. 47. There is no evidence on record that makes any reference to either of the parties having timely complied with this order once the discovery dispute arose.

Consequently, Westfield's request for a the exclusion of plaintiffs' expert witness, Dr. Roman Franco (Docket No. 46), is hereby **DENIED** for failure to comply with the orders set forth by this Court in the Status Conference and for failure to exhaust Local Rule 26. Accordingly, plaintiffs' *Motion to Strike Motion to Exclude Dr. Roman Franco and Other Discovery Related Matters* (Docket No. 48) is **GRANTED**.

**IT IS SO ORDERED.**

**May 31, 2005**

S/ Daniel R. Dominguez  
**DANIEL R. DOMINGUEZ**  
**U.S. DISTRICT JUDGE**